

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Satellite Home)	CS Docket No. 00-96
Viewer Improvement Act of 1999)	
)	
Broadcast Signal Carriage Issues)	

To: The Commission

SUPPORTING COMMENTS

The Long Island Educational Television Council, by its attorneys, hereby supports the Emergency Petition filed by the National Association of Broadcasters and the Association of Local Television Stations with respect to EchoStar's relegation of some must-carry stations to satellites requiring subscribers to obtain a second dish, for the following reasons:

1. EchoStar offers its New York metro area subscribers 14 local broadcast channels. Eight of those channels are available on its basic "DISH 500" service. Six of them, including the signal of Station WLIW, are available only through the installation of a second receiving antenna dish.¹ The second-tier channels are three PBS stations, two commercial independents, and a network DTV signal.

2. EchoStar's treatment of Station WLIW is the opposite of what the Satellite Home Viewer Improvement Act and the FCC's rules contemplate. The company has created two classes of must-carry signals and put a grossly disproportionate number of

¹ See <<http://www.dishnetwork.com/content/programming/locals/package/index.asp?viewby=2&packid=17&sortby=1>>.

public television must-carry signals in a secondary service. Station WLIW's extensive public television schedule of children's, public affairs, news, and other programming is not available to EchoStar subscribers unless they (a) learn that the station is available through installation of a second dish (not an easy matter, as noted by the NAB and ALTV), (b) request the second dish, and (c) for most people, stay home from work during an installation window. The scheme also presupposes that the subscriber has room at the receive point for another antenna and is not concerned about the aesthetics of a second dish. The Council believes that its signal is valuable to New York area residents, and especially the millions of residents of Long Island. But realistically, not many people are going to go through that process to get a handful of additional signals (not including the most heavily viewed) added to a package of hundreds of program channels.

3. The relegation of Station WLIW to a decidedly inferior tier of carriage obviously hurts the station, which exists to provide service to the community and which relies in large part on memberships for financial support. EchoStar is carrying PBS affiliate Station WNET, Newark, New Jersey, as part of its New York primary service, but the two stations provide distinct programming services and are both entitled to carriage. As a federal court of appeals noted when it rejected EchoStar's effort to overturn the must-carry law, "Congress understood that the threat to over-the-air viewers was not the loss of broadcasting as a medium, but the loss of the independent stations needed to provide those viewers with a rich mix of broadcast programming from multiple sources." *Satellite Broadcasting & Communications Ass'n v. FCC*, 2001 WL 1557809 *15 (4th Cir. Dec. 7, 2001). EchoStar's relegation of Long Island's sole

public television station to second-class status undercuts the policy embodied in the law.

4. EchoStar's practice creates a discriminatory effect and should be ended. The Council urges the Commission to issue a declaratory ruling to resolve any ambiguity in the rules so as to fully implement the law. It is unfair and against the public interest to deprive the New York audience of a key local public television service. It would be intolerable to permit this state of affairs to continue indefinitely. The requested clarification should be issued as soon as possible.

Respectfully submitted,

THE LONG ISLAND EDUCATIONAL
TELEVISION COUNCIL

By: _____
Lawrence M. Miller

SCHWARTZ, WOODS & MILLER
Suite 300
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036-1717
202-833-1700/Telephone
202-833-2351/Facsimile

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